

# NOTICE OF INTENT

## Department of Economic Development Office of Commerce and Industry

### Enterprise Zone Program (LAC 13:I.Chapter 9)

Under the authority of R.S. 51:1785(5) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Commerce and Industry has amended the Enterprise Zone rules, Title 13, Part 1, Subpart 1, Chapter 9.

The Board of Commerce and Industry has adopted rules in accordance with 1995, Act 194 which allows the Board of Commerce and Industry discretion in allowing a late filing of an advance notice of a project; and 1995, Act 581 which expands the number of enterprise zones from 35 percent to 40 percent and certain other clarifications and definitions (housekeeping changes). Additionally, 1995, Act 581 created Economic Development Zones. Due to the pervasiveness of the changes, all rules are to be repromulgated.

#### **Title 13**

#### **ECONOMIC DEVELOPMENT**

#### **Part I. Office of Commerce and Industry**

#### **Subpart I. Finance**

#### **Chapter 9. Enterprise Zone Program**

##### **§901. Scope**

A. Intent of Program. To stimulate business and industrial growth in depressed areas of the state which are designated as enterprise zones; and, in certain other areas designated as Economic Development Zones by providing tax incentives for new jobs created in these areas and by providing assistance to businesses and industries.

B. Description of Program

1. Louisiana's Enterprise Zone Program is a package of tax credits and other incentives to businesses locating in specially designated Enterprise Zones or Economic Development Zones in both urban and rural parishes. Enterprise Zone incentives are in addition to many other state-sponsored incentives such as the Ad Valorem (property) tax exemption for manufacturing facilities and equipment, and the cost-free employee training program.

2. An Enterprise Zone is an officially designated area of high unemployment, low income and/or an area where a large number of residents are receiving some form of public assistance. For purposes of R.S. 51:1787(B)(4)(c) and (D)(4)(b) the term "some form of public assistance" shall include any program of assistance financed in whole or in part by a federal, state, or any local government agency, eligibility for which is dependant upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six-month period prior to their employment.

3. An Economic Development Zone is a geographic area of contiguous real properties, defined by a visible boundary, designated as such by the state or the local governmental subdivision in which it is located and approved by the Board of Commerce and Industry. The location of an Economic Development Zone once defined is permanent (cannot be moved or swapped) and is owned or operated by the state or a political subdivision of the state or operated by an entity created by the state or a political subdivision of the state. Economic Development Zones will have been created by state statute and are defined to include the following:

- a. industrial park
- b. business park
- c. airport or air park
- d. research park
- e. research and development park
- f. downtown development district
- g. former federal facility (such as an old military base, etc., not a single building or small grouping of prior federally owned and occupied buildings. The immediate previous occupant of this facility must have been a federal governmental entity.)
- h. port (working areas)

4. Each Economic Development Zone will submit an annual report which will compare activity in the last completed year to the previous year's activity.

5. Any business, except residential type development, can qualify for Enterprise Zone tax incentives. Manufacturing plants, service industries and commercial operations are equally eligible. Companies moving into an Enterprise Zone or Economic Development Zone and companies located in an area at the time the region is declared an Enterprise Zone or Economic Development Zone can both apply for benefits providing the minimum of five net new jobs are added (to the state within the first two years).

6. All parishes that have a 1990 population of less than 50,000 will be allowed to designate one additional Enterprise Zone which would not otherwise qualify.

C. Incentives

1. A one-time tax credit of \$2,500 for each net new (Louisiana resident) employee (minimum of five within the first two years of the contract period) added to the payroll. The credit may be used to satisfy state income and corporate franchise tax obligations. If the entire credit cannot be used in the year created, the remainder may be applied against the income tax or franchise tax for the succeeding 10 taxable years, or until the entire credit is used, whichever occurs first.

2. In lieu of the tax credit of \$2,500, aviation and aerospace industries as defined in the 3720's and 3760's Standard Industrial Classification (SIC) manual are eligible for a one-time tax credit of \$5,000 for each net new (Louisiana resident) employee (minimum of five within the first two years of the contract period) added to the payroll. The credit may be used to satisfy state income and corporate franchise tax obligations. If the entire credit cannot be used in the year created, the remainder may be applied against income tax or franchise tax for the succeeding 10 years, or until the entire credit is used, whichever occurs first.

3. An additional \$2,500 tax credit is available to employers who hire Aid to Families with Dependent Children (AFDC) recipients. This tax credit is in addition to the \$2,500 for new jobs created. The AFDC participant must receive compensation which will disqualify such person from continued participation in the AFDC program and must be employed for two years to generate the additional tax credit. An employee shall be limited to two years participation under this program. This credit may be applied to any state income or franchise tax liability and shall be used for the taxable year in which the increase in average annual employment occurred. An employer shall not obtain a credit for more than 10 employees in the first year of participation in the program. An employer receiving this additional credit is limited to 10 years participation.

4. Refunds can be made of sales and/or use taxes, imposed by the state and imposed by its local governmental subdivisions, upon approval of the governing authority of the appropriate municipality, parish, or district, where applicable, on all eligible purchases during the specified construction period (and transfers into Louisiana) of the material used in the construction of a building, any addition or improvement thereon and/or on equipment used exclusively on that site in the operation of that business enterprise. Refunds made by local governmental subdivisions can only be made of those sales/use taxes that are not dedicated to the repayment of a bonded indebtedness (sales/use taxes dedicated to schools are not refundable). Final requests for the payment of any refund must be filed, with the state (Department of Revenue and Taxation) and/or its local governmental subdivision no later than six months after the project's completion or six months after the date of the governor's signature on the contract, whichever is later.

D. Qualifications

1. To qualify for Enterprise Zone tax incentives in a parish designated as urban, a company must be located in a designated Enterprise Zone and must certify that a minimum of 35 percent of its new or expanded work force meet the requirements of §909.

2.a. In the case of Economic Development Zones or Enterprise Zones located in a parish designated as rural, a minimum of 35 percent of its new or expanded work force must meet the requirements of §911.

b. These requirements apply equally to companies moving into an Enterprise Zone or Economic Development Zone for the first time and to those which may have been located in an Enterprise Zone or Economic Development Zone at the time it was designated as such.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1781 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), amended LR 22:

**§902. Future Contract Availability**

All businesses that held a valid contract for Enterprise Zone benefits prior to January 1, 1996, may apply for additional contracts for all location(s) which had a prior contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5) et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce, Financial Incentives Division, amended LR 22:

**§903. Use of Louisiana Manufacturers and Suppliers**

The Board of Commerce and Industry request businesses and manufacturers receiving tax relief and their contractors, to consider giving preference to Louisiana manufacturers, suppliers, contractors, and labor, except where not reasonably possible to do so without added expense or substantial inconvenience or sacrifice in operational efficiency all other factors being equal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

**§905. Endorsement Resolution**

Applicants who intend to recover local sales/use taxes must submit a resolution, stating that fact, from the taxing body(s) which intends to refund sales/use taxes for the project, with their application for state benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252, (March 1991), LR 22:

#### **§907. Documentation of Location**

The business must document its location within the boundaries of a particular Enterprise Zone or Economic Development Zone by furnishing a 1990 U.S. Census map with the site's location clearly marked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§909. Qualified Employees - Urban Zones**

A. A business located in an urban parish Enterprise Zone and receiving the benefits of this Chapter must certify that at least 35 percent of its new employees are Louisiana residents who:

1. are living in an Enterprise Zone in the same parish as the location of the business; or
2. are living in an Enterprise Zone in a contiguous parish if the business has 500 or more employees;

or

3. were receiving some form of public assistance prior to employment (see definition of "some form of public assistance" §901.B.2); or

4. were considered unemployable by traditional standards, or lacking in basic skills.

a. The term "traditional standards" means anyone who qualifies as physically challenged.

b. The term "lacking in basic skills" means anyone who exhibits reading or writing or math skills

below grade level 8.9.

B. An Annual Employee Certification must be filed by February 15, on all active contracts, if the business is to continue to qualify for additional benefits under this Chapter.

C. Employee count will be taken from the business's entire contiguous site for the purposes of calculating the tax credits generated. If the business has more than one site within the metropolitan area where the project is located, then the department may consider the total employee count at all those locations in calculating the total employee credits generated.

D. Monthly totals of permanent full-time employees will be averaged over a minimum of six months to determine the number of tax credits generated. Part-time employees may be averaged-in with the full-time employees after having completed a minimum of six months of continuous employment comprised of a minimum of 20 hours every week during that continuous period. Generally, the number of employees reported to the Louisiana Department of Labor will be used to calculate this average monthly total.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§911. Qualified Employees - Rural Enterprise Zones and Economic Development Zones**

A. A business located in an Economic Development Zone or a rural parish Enterprise Zone and receiving the benefits of this Chapter must certify that at least 35 percent of its new employees are Louisiana residents who:

1. live in the same parish as the location of the business or
2. were receiving some form of public assistance prior to employment or;
3. were considered unemployable by traditional standards, or lacking in basic skills.

a. The term "traditional standards" means any one who qualifies as physically challenged.

b. The term "lacking in basic skills" means anyone who exhibits reading or writing or math skills

below grade 8.9.

B. An Annual Employee Certification must be filed by February 15, on all active contracts, if the business is to continue to qualify for additional benefits under this Chapter.

C. Employee count will be taken from the business' entire contiguous site for the purposes of calculating the tax credits generated. If the business has more than one site within the metropolitan area where the project is located, then the department may consider the total employee count at all these locations in calculating the employee credits generated.

D. Monthly totals of permanent full-time employees will be averaged over a minimum of six months to determine the number of tax credits generated. Part-time employees may be averaged-in with the full-time employees after having completed a minimum of six months of continuous employment comprised of a minimum of 20 hours every week during that continuous period. Generally, the number of employees reported to the Louisiana Department of Labor will be used to calculate this average monthly total.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

### **§913. Reserved**

### **§915. Arbitrary Termination of Employees**

The board will not accept an application from a business which has terminated employees and rehired them or others in order to qualify for the benefits of this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

### **§917. Items Eligible for Sales/Use Tax Refund**

Only capitalized material used in the construction that becomes a part of a building, or any addition or improvement thereon, for housing any legitimate business, and capitalized machinery and equipment purchased, or transferred into Louisiana, within the construction period and used exclusively on that site and in that business will be considered eligible for refunds of sales/use taxes.

1. A partial listing of ineligible items on which sales/use taxes are not refundable are: per diem, labor, service contracts/labor, storage, freight, portable toilets or radios, utilities, permits and fees, office supplies, construction consumables (blades, drill bits, PVC sheeting, tape, gloves, dusk masks, etc.), all leases and rentals.

2. Lease-purchases are eligible for a sales/use tax refund if the sales/use taxes are paid at the beginning of the lease period and a copy of the agreement is sent to the Louisiana Department of Revenue and Taxation, for review, prior to the application being presented to the Board of Commerce and Industry for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, amended LR 17:252 (March 1991), amended LR 22:

### **§919. Filing of Applications**

A. An advance notification of intent shall be filed prior to the beginning of construction. An advance notification fee of \$100 shall be submitted with the prescribed advance notification form. An advance notification will expire two years after the "construction ending date" shown on the advance notification unless a written request for extension is received by the department prior to that date.

B. Applications must be filed with the Office of Commerce and Industry, P.O. Box 94185, Baton Rouge, Louisiana, 70804-9185 on the form prescribed, within three months after completion of construction or the beginning of operations, whichever is later.

C. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins or the first day that materials or equipment purchased for that project are received. Where there is no construction, the first day on which a new hire is made in connection with the project shall mean "beginning of construction" for the purposes of this Section.

D. Submission of Application Fee

1. An application fee shall be submitted with the application based on the following formula:

$$\text{FEE} = \text{TOTAL ESTIMATED TAX RELIEF} \times .002$$

Total Estimated Tax Relief = state sales/use tax refund + local sales/use tax refund + jobs credit\*.

Estimated Tax Relief x .2% (.002) = Application Processing Fee

(Anticipated from this application)

2. An application fee correction will be due if a project's scope is increased which would have resulted in a minimum of \$100 more fee than what has already been submitted, unless the maximum has been paid.

\* Jobs credit - this amount is either the total amount you calculate by multiplying the new jobs by \$2,500 (\$5,000 for aerospace or AFDC credits that will be claimed) or the total income and franchise tax liability you anticipate for the next 10 years, whichever is less.

Note: Minimum Application Processing Fee \$200.

Maximum Application Processing Fee \$5,000.

3. All fees shall be made by check payable to: Louisiana Office of Commerce and Industry.

E. The business shall file, on the prescribed form, an affidavit of final cost showing a complete listing of building(s) and equipment and the cost of each item on the project, together with a fee of \$100 for the plant inspection which will be conducted by the Office of Commerce and Industry. This affidavit is due to be filed either within six months after the completion of construction or when the signed original contracts are returned to the Office of Commerce and Industry whichever is later. Upon request by the Office of Commerce and Industry, a map showing the location of all facilities claiming refunds in the project will be submitted in order that the property may be clearly identifiable.

F. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated tax relief or the fee submitted is incorrect. That document may be resubmitted within 30 days with the correct fee without penalty.

G. The advance notification, application, and the affidavit of final cost will not be considered officially received or accepted until the appropriate fee is submitted. Processing fees, for advance notifications,

applications, or affidavits of final cost which have been received and accepted, will not be refundable.

H. Applications must be submitted to the Office of Commerce and Industry, Financial Incentives Division at least 60 days prior to the Board of Commerce and Industry meeting where it is intended to be heard.

I. The applicant proposing a project with a construction period greater than two years is required to separate the project into phases, with no phase having a over a two-year construction period. Each construction phase shall require a separate application to be filed with the department. The applicant must comply with §935.A, requiring the creation of five new jobs on each application filed on a project. An application fee shall be submitted with each application filed based on the fee schedule in §919.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§921. Recommendations of the Secretaries of Economic Development and Revenue and Taxation**

The Office of Commerce and Industry shall forward the application with its recommendations to the secretary of Economic Development and the secretary of Revenue and Taxation for their review. The secretaries of Economic Development and Revenue and Taxation shall submit their recommendations (the secretary of Revenue and Taxation shall submit a letter of no-objection in lieu of a letter of recommendation) in writing to the assistant secretary for Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§923. Application shall be Presented to the Board of Commerce and Industry**

The Office of Commerce and Industry, Financial Incentives Division shall present an agenda of applications to the Board of Commerce and Industry with the written recommendations of the secretaries of Economic Development and Revenue and Taxation and, if applicable, the endorsement resolutions outlined in §905 and shall make recommendations to the board based upon its findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§925. Board of Commerce and Industry Enters into Contract**

Upon approval of the application, the Board of Commerce and Industry may enter into contract with the applicant for refunds of the taxes allowed by R.S. 51:1781-1791. A copy of the contract shall be sent to the Department of Revenue and Taxation and the local governmental subdivision's taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§927. Refunds of Sales/Use Taxes**

A. The contract will not authorize the applicant to make tax-free purchases from vendors. The refund of state sales/use taxes will be effected by the Department of Revenue and Taxation. Refunds will be secured by the filing of affidavits with the Department of Revenue and Taxation, Sales Tax Section, which must include the following:

1. a listing of purchases of eligible property that is intended to be used permanently on the project site and the contract number of the project. The listing must include a brief description of each item, the vendor's name, date of the sale, sales price and the amount of state sales/use tax paid. The items included in the listing must have been purchased by the owner of the project, or by a builder or other party that has contracted with the owner to provide materials and services for the project;

2. a certification that the materials included in the listing are reasonably expected to qualify for a refund under provisions of the statute;

3. a certification that the sales/use taxes have actually been paid on the items included in the listing.

B. The affidavit may be filed on official Department of Revenue and Taxation "Claim for Refund" forms or on other forms prepared by the applicant. After the Department of Revenue and Taxation has verified the information on the application, a refund check will be issued for the amount of state sales/use taxes paid.

C. Local sales/ use tax refunds will be handled in the manner prescribed by the local taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§929. Businesses with Contracts must File State Franchise and Income Tax Returns**

A. Businesses that have eliminated their Louisiana Income and/or Franchise tax liability by applying tax credits earned under this program shall file the same required forms and returns with the Department of Revenue and Taxation as would be required if no credits were taken. Each annual return will have the

contract number, a certification attached showing the annual increase in employment, as determined by the company's average monthly employment (certified by the Office of Commerce and Industry) as reported to the Louisiana Department of Labor, and the unused credits from previous years. If total tax credits are less than the total taxes, remittance in the amount of the difference must be enclosed with the return. Limited Liability Companies, Subchapter S Corporations, etc. must have the name of all owners shown in the contract in order for tax credits to flow through to said owners.

B. Partnerships and sole proprietorships shall file the same returns as would be required if the tax credits had not been granted. In addition, each return must include a profit and loss statement for a business claiming enterprise zone credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

### **§931. Violations of Rules, Statutes, or Documents**

On the initiative of the Board of Commerce and Industry or whenever a written complaint of violation of the terms of the rules, the contract documents, or the statutes is received, the assistant secretary for the Office of Commerce and Industry shall determine if a full investigation is to be made on behalf of the board, and shall have full authority for such investigation including, but not exclusively, authority to call for reports or pertinent records or other information from the contractors. If the investigation appears to substantiate a violation, the assistant secretary will present the subject contract to the board for formal board action. The businesses with contracts shall then remit any and all taxes that would have been imposed but for the issuance of a contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

### **§933. Affidavits Certifying Eligibility Filed Annually**

On February 15 of each year, all businesses with active Enterprise Zone contracts are required to file an affidavit with the Office of Commerce and Industry certifying that the business still qualifies under §909 or §911. If the affidavit shows the company no longer qualifies under this rule, the Board of Commerce and Industry shall cancel the contract and no further tax credits will be granted. The Department of Commerce will notify the Department of Revenue and Taxation within 30 days after cancellation of a contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 8:230 (May 1982), amended LR 9:544 (August 1983), LR 11:95 (February 1985), amended LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

### **§935. Job Creation Requirements - Five New Jobs must be Created**

A. For a business to qualify for the benefits of this Chapter, there must be an expansion in the total number of employees. A minimum of five new jobs credits must be generated within the first two years of the contract period.

B. A "new employee" shall be a Louisiana resident hired by the taxpayer, during the contract period, to fill a position for a job in this state which previously did not exist in the business. In no case shall the new employees allowed for purpose of the credit exceed the total increase in employment. A person shall be deemed to be so engaged if such person performs duties in connection with the operation of the business on:

1. a regular, full-time basis, (minimum of 30 hours per week, ability to accumulate paid sick and/or annual leave and the option of and possible payment, at least in part, of the employee's health insurance);

2. a part-time basis, provided such person is regularly performing such duties a minimum of 20 hours per week for a minimum of six continuous months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:544 (August 1983), amended LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

### **§937. Reserved**

### **§939. Multi-tenant Operations**

In the case of a facility where there are more than one occupant/tenant, an owner applicant for the benefits of this Chapter must either occupy a minimum of 33 percent of the total floor area of the building or the tenants are businesses that are new to the state or the tenants are Louisiana businesses that are increasing their number of locations within Louisiana with this location or the tenants are moving from another Louisiana location and will generate a minimum of five new job credits per §935.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:544 (August 1983), amended LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§941. Alternate Designation of Enterprise Zones**

A. A local governmental subdivision requesting the alternate designation (swap) of an Enterprise Zone must provide valid reason(s) for requesting an exchange and must have the approval of the Board of Commerce and Industry. The alternate designation of an Enterprise Zone will be on a one-time basis only unless there are extenuating circumstances which must have approval of the Board of Commerce and Industry. All requests to the Board of Commerce and Industry for the movement of an eligible enterprise zone must be accompanied by a single map showing the location of the old and the new zone areas. The following information must also accompany a request for a swap of enterprise zones:

1. the distance between the new zone location and the old location;
2. the number of workers who were or will be hired from the old zone location by the business for which the swap is made;
3. the distance of the new zone to the closest other zone.

B. In order for an applicant to meet the requirements of §909, those employees who are residents of an originally designated 1990 Census Tract - Block Group which was deleted by virtue of an alternative designation may qualify as part of the 35 percent residency requirement.

C. The effective date of a swap approved by the Board of Commerce and Industry shall be the date of passage affixed to the resolution by the local governing authority requesting alternative designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:544 (August 1983), amended LR 11:95 (February 1985), LR 12:660 (October 1986), LR 13:289 (May 1987), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§943. Appeals and Petition Procedure**

A. Applicants who wish to appeal an action of the Board of Commerce and Industry must submit their appeals along with any necessary documentation to the Office of Commerce and Industry, Financial Incentives Division, at least one month prior to the meeting of the Screening Committee of the Board of Commerce and Industry during which their appeal will be heard.

B. Petitions, and all documentation, on matters not yet presented to or ruled on, by the board, must be submitted to the Office of Commerce and Industry, Financial Incentives Division, at least one month prior to the meeting of the board in which the petition will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:544 (August 1983), amended LR 11:95 (February 1985), LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§945. Income and Franchise Tax Requirements**

In order for a business to benefit from the income and corporate franchise tax benefits of this Chapter, an estimated five-year income and franchise tax liability must be provided by the applicant. This information will be used only to estimate the economic impact of the project to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:544 (August 1983), amended LR 11:95 (February 1985), LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§947. Exclusion of Residential Developments**

A business engaging in residential-type development (construction, selling or leasing of single-family/multi-family dwellings, apartment buildings, condominiums, town houses, etc.) shall not be eligible for the benefits of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:544 (August 1983), amended LR 11:95 (February 1985), amended LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), LR 22:

#### **§949. Prohibit Local Fees and Prohibit Local Conflicting Employment Practices**

No local governmental subdivision shall charge any fees or require any employment practices which conflict with state law as a precondition to authorize tax benefits under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), amended LR 22:

#### **§951. Application Procedures**

A. Applicants and/or their representatives will be notified of the date of the Screening Committee and board meeting at which their application will be considered. The applicant should have an officer of authority present who is able to answer any questions the Screening Committee or board might have about the information contained in the application. In the event there is not a representative present, the application may be deferred.

B. When an application is approved, a contract is supplied to the applicant by the Office of Commerce and Industry. The applicant must execute the contract and return it within 30 days. The state will complete the execution. A fully executed original will then be forwarded to the applicant, the Louisiana Department

of Revenue and Taxation and a copy sent to the proper local governmental taxing authority(s).

C. The taxing authorities of the local governmental subdivision(s) issuing the endorsement resolution should be contacted to determine their procedure for rebating their sales/use tax. The applicant will be contacted by the staff of the Department of Revenue and Taxation who will inform the applicant on the proper procedures to follow in order to obtain the state sales/use tax refund.

D. The sales/use tax refund portion of the contract will only be valid for the duration of the construction period as indicated in the application.

E. The business shall file, on the prescribed form, an Affidavit of Final Cost showing complete listing of building(s) and equipment and cost of each item of the project, together with a fee of \$100, for the inspection which will be conducted by the Office of Commerce and Industry staff. This affidavit is due to be filed either within six months after the completion of construction or when the signed original contracts are returned to the Office of Commerce and Industry which ever is later.

F. An annual employee certification report must be filed (§933), certifying compliance with either §909 or §911. This report will be filed annually by February 15. The Office of Commerce and Industry will supply the necessary forms and instructions to complete them.

G. Notification of any change which may affect the contract should be made to Office of Commerce and Industry. This includes, but is not limited to, changes in the ownership or operational name of the business holding a contract or the suspension, closing or abandonment of operations. Failure to report within 90 days can constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1785(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce, Financial Incentives Division, LR 17:252 (March 1991), amended LR 22:

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than March 11, 1996 at 5 p.m. to Paul Adams, Director, Financial Incentives Division, Box 94185; Baton Rouge, LA 70804 or to 101 France Street, Baton Rouge, LA 70802.

R. Paul Adams  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Enterprise Zone Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Board of Commerce and Industry has adopted rules in accordance with 1995 Act 194 (HB 2320) which allows the Board of Commerce and Industry discretion in allowing a late filing of an advance notice of a project; and 1995 Act 581 (HB 799) which expands the number of enterprise zones from 35 percent to 40 percent (203 new areas) and certain clarifications and definitions (housekeeping changes). Additionally, the act created Economic Development Zones (EDZ) which are identified as any industrial park, airport, or air park, research park, research and development park, downtown development districts, former federal facility, or port.

Section 1786(9) mandates new mapping requirements for all enterprise zones and EDZs; and the transmission of copies of updated maps to each sub-state planning district once every six months. The Department of Economic Development estimated that the mapping needs would require one additional position in addition to equipment and supplies at a cost of \$40,268 for FY 95/96. However, these costs have not been budgeted. No estimates are available or can be made for local government costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Department of Economic Development's administration estimated that the addition of a potential 453 areas (203 enterprise zones and 250 EDZs) would amount to a negligible increase in development in each parish; and which would not increase the total credits and rebates from the existing program levels. It is the opinion of the Department of Economic Development administration that the revenue decreases due to the Enterprise Zone Program are offset by additional tax revenues generated by the payrolls and other taxes paid by new and expanded businesses.

There will likely be only a small negative effect on state and local revenues as a result of the proposed rule changes. No estimate can be made of the effect on the revenue collections of state and local governments because some of the new zones may be created in areas with existing business activity that would become eligible for Enterprise Zone Program benefits should these businesses expand employment or operations. The impact will decrease local sales and use tax revenues and state income taxes, franchise taxes, and sales and use taxes. The department anticipates receiving an estimated additional 100 applications annually which would remit a minimum \$400 application fee each, resulting in an increase in state self-generated revenue of \$40,000+ annually.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Businesses locating in these new areas will receive tax credits of \$2,500 for each net new permanent job created during the term of the five-year contract, which can be applied to their income and/or corporate franchise tax. In

addition, sales/use taxes not dedicated to school taxes or bonded indebtedness may be refunded on new buildings and materials and new machinery and equipment. No estimate can be made of the number of applications that will be received for these new areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The intent of the Enterprise Zone Program is to stimulate business and industrial growth in depressed areas of the state which are designated as enterprise zones and, in certain other areas designated as economic development zones, by providing tax incentives for new jobs created. No estimate of the number of new jobs can be made.

R. Paul Adams  
Director  
9602#061

John R. Rombach  
Legislative Fiscal Officer